IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

MACA.No. 554 of 2006()

OPMV.916/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
WAYANAD
.....

APPELLANT/3RD RESPONDENT

NATIONAL INSURANCE COMPANY LTD.,
KALPETTA BRANCH, KALPETTA POST, REP. BY THE
MANAGER, MTPD, R.O., KOCHI.

BY ADV. SRI.RAJAN P.KALIYATH

RESPONDENTS: CLAIMANT

RAJAN, S/O.KRISHNAN NAIR,
CONDUCTOR, KSRTC, THACHAROTH HOUSE,
MOOLANKAVU POST, KUPPADI AMSOM DESOM,
SULTHAN BATHERY TALUK, WAYANAD.

BY ADV. SRI.N.J.ANTONY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 14/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO.618/06 IN MACA 554/06

DISMISSED

14/2/2007

SD/-M.SASIDHARAN NAMBIAR,JUDGE.

//True copy//

PA to Judge.

M.SASIDHARAN NAMBIAR,J.

M.A.C.A .NO. 554 OF 2006

Dated 14th February 2007

J U D G M E N T

Third respondent insurance company is challenging the award passed by Motor Accidents Claims Tribunal, Kalpetta in favour of first respondent claimant in O.P.(MV).916/2000 who sustained injury in a motor accident on 5/3/2000 at about 1.45 p.m. Award was challenged on the ground that first respondent sustained only a swelling on left side of forehead as is clear from Ext.A3 wound certificate and compensation of Rs.15,400/- awarded is excessive.

2. Adv.Mr.Antony appeared for respondent. Learned counsel appearing for appellant and respondent were heard.

3. Ext.A3 wound certificate (copy of which was made available by learned counsel appearing for appellant) shows that the only injury sustained by appellant was swelling on left side of forehead. It does not show that respondent was even treated as inpatient. In the nature of injury there is no

necessity to treat him as inpatient. No other evidence was adduced by respondent to show expenses for transportation or for treatment. Unfortunately, Tribunal awarded compensation of Rs.5,000/- for loss of earnings, Rs.300/- for damages to clothing, Rs.600/- for extra nourishment, Rs.500/- for transportation charges and Rs.1,000/- for by-standers expenses. The award is undoubtedly, unconstitutionally excessive. Award is therefore set aside. Respondent is entitled to get compensation of Rs.3,000/- for pain and sufferings and Rs.1,500/- towards treatment expenses, damages to clothing, transportation charges etc. Respondent is entitled to get only a compensation of Rs.4,500/-.

4. Appeal is allowed. Award passed by M.A.C.T, Kalpetta in O.P.(MV) 916/2000 is set aside. An award is passed granting a total compensation of Rs.4,500/- with interest at 6% per annum from the date of filing of petition. Appellant has deposited Rs.7,700/- before the Tribunal. Respondent is entitled to withdraw the compensation from the amount and if there is excess appellant is entitled to withdraw the same.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.